

BILL ANALYSIS

Senate Research Center

H.B. 472
By: Solomons (Shapleigh)
Business & Commerce
5/9/2001
Engrossed

DIGEST AND PURPOSE

Consumers nationwide lose an estimated \$40 billion each year through telemarketing fraud, and often complain that telemarketers invade their privacy and irritate them with numerous or aggressive solicitations. Some calls violate the state mandated self-imposed no-call list that is maintained by solicitors as well as violating the state time restrictions on solicitations. H.B. 472 creates the Texas Telemarketing Disclosure and Privacy Act to set forth provisions to protect consumers from unwanted telemarketing calls and to penalize telemarketers in violation of the provisions.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 1 (Section 43.103, Business and Commerce Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Business & Commerce Code, by adding Chapter 43, as follows:

CHAPTER 43. TELEMARKETING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 43.001. SHORT TITLE.

Sec. 43.002. DEFINITIONS.

Sec. 43.003. TELEMARKETING CALLS GOVERNED BY CHAPTER.

Sec. 43.004. MAKING TELEMARKETING CALL.

Sec. 43.005. CONSTRUCTION AND APPLICATION.

Sec. 43.006. WAIVER PROHIBITED.

[Sections 43.007-43.050 reserved for expansion]

SUBCHAPTER B. CALLER IDENTIFICATION

Sec. 43.051. PROHIBITION ON INTERFERENCE WITH CALLER IDENTIFICATION SERVICE.

Sec. 43.052. ENFORCEMENT; PENALTIES.

[Sections 43.053-43.100 reserved for expansion]

SUBCHAPTER C. TEXAS NO-CALL LIST

Sec. 43.101. COMMISSION TO ESTABLISH TEXAS NO-CALL LISTS.

Sec. 43.102. TELEMARKETING OF PERSONS ON TEXAS NO-CALL LIST;
ENFORCEMENT; PENALTIES.

Sec. 43.103. RULES; CUSTOMER INFORMATION; ISOLATED VIOLATION.

Sec. 43.104. ASSISTANCE OF DEPARTMENT OF INFORMATION RESOURCES.

[Sections 43.105-43.150 reserved for expansion]

SUBCHAPTER D. FACSIMILE TRANSMISSIONS

Sec. 43.151. NOTICE IN FACSIMILE SOLICITATION.

Sec. 43.152. ACKNOWLEDGMENT REQUIRED; TRANSMISSION PROHIBITED.

Sec. 42.153. ENFORCEMENT; PENALTIES.

[Sections 43.154-43.200 reserved for expansion]

SUBCHAPTER E. REGULATORY REPORTS

Sec. 43.201. REPORT BY COMMISSION.

Sec. 43.202. REPORT BY ATTORNEY GENERAL.

[Sections 43.203-43.250 reserved for expansion]

SUBCHAPTER F. PROVISIONS APPLICABLE TO ADMINISTRATIVE PENALTIES

Sec. 43.251. DETERMINATION OF AMOUNT.

Sec. 43.252. STAY OF PENALTY.

Sec. 43.253. CONTESTED CASE.

SECTION 2. Amends Sections 35.47(d)-(g), Business & Commerce Code.

SECTION 3. Repealers: Section 55.1065 and Chapter 55G, Utilities Code.

SECTION 4. Requires the Public Utility Commission of Texas to adopt rules required by Section 43.103, Business & Commerce Code, as added by this Act, before July 1, 2002.

SECTION 5. Provides that this Act takes effect January 1, 2002, except that Section 3 of this Act takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. Provides that if this Act does not receive the vote necessary for immediate effect, Section 3 of this Act takes effect September 1, 2001.